

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**SUE F. BRADLEY,**

Plaintiff,

vs.

**GUIDANT CORPORATION, et al,**

Defendants.

**CIVIL ACTION NO.  
3:07 CV 661-MHT**

**MOTION TO DISMISS AND JOINDER IN MOTION TO STAY**

Without waiving any other defense he may have to this lawsuit, Defendant Joe Nappier (“Nappier”) moves to dismiss the Plaintiff’s Complaint, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim upon which relief can be granted. In support of this motion, Nappier states that he has been fraudulently joined to this action, and incorporates the legal arguments, citations, and exhibits in Defendant Guidant Corporation and Guidant Sales Corporation’s Notice of Removal.

Nappier further hereby joins in the Motion to Stay All Proceedings in this Court Pending Transfer to MDL 1708, previously filed by Defendants Guidant Corporation and Guidant Sales Corporation.

s/ Andrew B. Johnson

---

One of the Attorneys for  
Joe Nappier

OF COUNSEL:

Fred M. Haston, III (HAS012)  
Andrew B. Johnson (JOH168)  
Bradley Arant Rose & White LLP  
1819 Fifth Ave. North  
Birmingham, Alabama 35203  
(205) 521-8000  
(205) 521-8810 (fax)  
[thaston@bradleyarant.com](mailto:thaston@bradleyarant.com)  
[ajohnson@bradleyarant.com](mailto:ajohnson@bradleyarant.com)

CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas J. Knight  
Hubbard & Knight  
1125 Noble Street  
P.O. Box 1850  
Anniston, AL 36201

Michael K. Wright  
Starnes & Atchison  
P.O. Box 598512  
Birmingham, Alabama 35259-8512

Steven R. Morris  
108 South Main Street  
P.O. Box 814  
Wedowee, Alabama 36278-0814

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

Respectfully submitted,

s/ Andrew B. Johnson

---

Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2104  
Telephone: (205) 521-8000  
Facsimile: (205) 521-8800  
E-mail: [ajohnson@bradleyarant.com](mailto:ajohnson@bradleyarant.com)